

REMARKS

Claims 1-21 were originally filed and were subject to a Restriction Requirement. Applicants affirm election, with traverse, of original claims 3-12 corresponding to the invention of Group II. Applicants have canceled claims 1, 2, and 13-21 without prejudice to renewal as being contained within the non-elected groups. Applicants reserve the right to prosecute the non-elected claims in subsequent divisional applications.

Justification for the amendments is as follows. Claims 1, 2, 4, 8, and 13-21 are canceled above without prejudice. Therefore, claims 3, 5-7, and 9-12 are pending. The amendments to the claims were made to further clarify the present invention. Claim 5 was amended to incorporate specific wash conditions, support for which is set forth on page 50 of the specification, lines 28 to 30. No new matter is added by any of these amendments.

I. Objection of Claims 3-6 and 10-12

The Examiner objected to claims 3-6 and 10-12, for being dependent on non-elected independent claim 1. (See Office Action, page 4.)

Claims 3-6 and 10-12 were rejected essentially for depending from non-elected claim 1. Claim 1 is canceled above. Claim 3, as amended above, is an independent claim, and amended claims 4-6 and 10-12 depend directly or indirectly from claim 3. Therefore, claims 3, 5, 6, and 10-12 are free of this basis for the rejection. Claim 4 is canceled and the rejection is therefore moot as to this claim. Withdrawal of the objection of claims 3-6 and 10-12 is thus respectfully requested.

II. Rejection of Claims 3-12 Under 35 U.S.C. 102(b)

Claims 3-12 were rejected under 35 U.S.C. 102(b) as being anticipated by Cabeza-Arvelaiz et al. (DNA Cell Biol., 12(10):881-892, (1993)). The Examiner rejected these claims because of the recitation of 'comprising' and 'fragment' language in the instant claims in the

absence of specific conditions for hybridization. (See Office Action, page 3.)

Applicants note that the claims as amended no longer recite "fragments". Amended claim 3 is drawn to "an isolated and purified polynucleotide encoding a polypeptide comprising the amino acid sequence of SEQ ID NO:1." Amended claim 7 is directed to "an isolated and purified polynucleotide comprising the polynucleotide sequence of SEQ ID NO:2." Amended claim 5 is directed to "an isolated and purified polynucleotide which hybridizes under stringent wash conditions of 0.1 x saline sodium citrate and 0.5% sodium dodecyl sulfate at room temperature to the polynucleotide of claim 3." Cabeza-Arvelaiz et al. does not disclose the specific sequences of SEQ ID NOs:1 and 2 in their entirety and therefore fails to anticipate claims 3 and 7. Claims 4 and 8 are canceled above and the rejection is therefore moot as to these claims. Claim 5 has been amended to recite specific hybridization wash conditions to minimize non-specific binding and thus, is not anticipated by Cabeza-Arvelaiz et al. Claims 5, 6, and 10-12 depend directly or indirectly from claim 3 and hence, are also not anticipated by Cabeza-Arvelaiz et al. Claim 9 depends directly from claim 7 and therefore, is also not anticipated by Cabeza-Arvelaiz et al.

As claims 3, 5-7, and 9-12 are not anticipated by Cabeza-Arvelaiz et al., and as claims 4 and 8 are canceled, withdrawal of the rejection of these claims under 35 U.S.C. 102(b) as being anticipated by Cabeza-Arvelaiz et al. is respectfully requested.

III. Rejection of Claims 4-6 and 8-9 Under 35 U.S.C. 112, second paragraph

Claims 4-6 and 8-9 were rejected under 35 U.S.C. 112, second paragraph, "as being indefinite." (Office Action, page 3.)

Specifically, the Examiner rejected claims 4 and 8 for the recitation of % identity. Claims 4 and 8 are canceled above and the rejected language does not appear in any of the pending claims. This basis for the rejection is thus moot.

The Examiner rejected claim 5 as being vague and indefinite because specific hybridization conditions are not set forth. (See Office Action, page 3.)

Applicants note that claim 5 has been amended to recite "an isolated and purified

polynucleotide which hybridizes under stringent wash conditions of 0.1 x saline sodium citrate and 0.5% sodium dodecyl sulfate at room temperature to the polynucleotide of claim 3." Claim 5 has been amended to include specific wash conditions. Amended claim 5 is therefore clear and definite and withdrawal of the rejection of claim 5 under 35 U.S.C. 112, second paragraph, is respectfully requested.

Claims 6 and 9 were rejected by the Examiner because these claims "do not recite if the sequence is fully or partially complementary to the reference sequence." (Office Action, page 4.) Amended claims 6 and 9 recite "completely complementary." Therefore, the basis for the rejection is moot as to these claims.

In view of the foregoing amendments, claims 5, 6, and 9 are free of any rejection under this section and as claims 4 and 8 are canceled above, withdrawal of the rejection of claims 4- 6 and 8-9 under 35 U.S.C. 112, second paragraph, is thus respectfully requested.

CONCLUSION

In light of the above amendments and remarks, Applicants submit that the present application is fully in condition for allowance, and request that the Examiner withdraw the outstanding objections and rejections. Early notice to that effect is earnestly solicited.

If the Examiner contemplates other action, or if a telephone conference would expedite allowance of the claims, Applicants invite the Examiner to contact Applicants' Attorney at (650) 845-4813.

Respectfully submitted,
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